



October 29, 2021

BY ELECTRONIC FILING

Marlene H. Dortch
Secretary
Federal Communications Commission
45 L Street, N.E.
Washington, DC 20554

Re: *ELS File No. 1522-EX-ST-2021*

Dear Ms. Dortch:

In this proceeding, Space Exploration Technologies Corp. (“SpaceX”) seeks experimental authority for six months of testing a single mobile user terminal earth station within a 160 km radius around Pensacola, Florida. The downlink spectrum on which this lone earth station in motion (“ESIM”) would receive transmissions from SpaceX’s non-geostationary orbit (“NGSO”) satellite system includes 12.2-12.7 GHz (the “12 GHz band”). Despite the incredibly limited nature of SpaceX’s proposed testing and the inability of its ESIM to cause interference by *receiving* signals in the 12 GHz band, one party—RS Access, LLC (“RS Access”)—filed an informal objection to the application,¹ as it has routinely opposed other applications for SpaceX’s operations in the 12 GHz band to support the windfall it hopes to receive if the band were repurposed for terrestrial mobile use. As discussed below, RS Access’s arguments are simply frivolous, little more than an abuse of the Commission’s processes. RS Access is continuing its bizarre single-minded obsession with harming Starlink consumers in the United States at every turn. Accordingly, the Commission should quickly reject RS Access’s unsupported and self-serving arguments and grant SpaceX’s application.

RS Access asserts five bases for its objection to SpaceX’s request to test a single ESIM for a six-month period—none of which withstand even the slightest scrutiny.²

1. RS Access argues that the application “run[s] counter to existing 12 GHz allocations and service rule constraints.” However, this is not an application for a commercial authorization that is remotely bound by such rules. To the contrary, experimental operations “may be authorized to use any Federal or non-Federal frequency designated in the Table of Frequency Allocations.”³
2. Next, RS Access asserts that the proposed testing would “upend the carefully balanced 12 GHz sharing regime.” At no time does RS Access even attempt to explain how non-

¹ See Letter from Trey Hanbury to Marlene H. Dortch, ELS File No. 1522-EX-ST-2021 (Sep. 30, 2021) (“RS Access Objection”).

² *Id.* at 1.

³ 47 C.F.R. § 5.85(a)(1).

- protected reception of signals in this band by a single ESIM for six months would have such an effect. As SpaceX explained in its application, because this ESIM will only receive in the 12 GHz band, it cannot cause any interference to any other user of the band. Moreover, SpaceX understands that experimental authorizations are only issued on a non-interference, non-protected basis,⁴ and thus does not seek or expect protection from other licensed services.
3. RS Access then claims that the proposed testing would serve no clear purpose because SpaceX could use other spectrum for ESIM operations. This argument has been debunked many times and ignores the fact that the 12 GHz band is at least one-quarter of the spectrum available for downlink transmissions to user terminals from SpaceX's NGSO system. SpaceX must not only share all of its downlink spectrum with other NGSO systems, but also must operate on a secondary basis with respect to fixed systems in half this spectrum (10.7-11.7 GHz) and must avoid 250 MHz at the bottom of the band (10.7-10.95 GHz) to protect radio astronomy operations in the adjacent band. Accordingly, the 500 MHz of 12 GHz spectrum constitutes the major portion of the spectrum available for communications with user terminals and is necessary to accommodate sharing with other spectrum users in these bands.
 4. Despite the fact that this single ESIM would only receive in the 12 GHz band, RS Access asserts that its short-term operation would "potentially disrupt existing and planned 12 GHz services." Yet RS Access does not identify any existing or planned 12 GHz services in the area proposed for testing or explain how non-protected reception of satellite signals in the band could possibly disrupt them. Indeed, the Commission has not yet determined whether RS Access or any other MVDDS licensee provides the substantial service required to justify continued licensing in the band.
 5. Lastly, RS Access claims that granting this application would "preempt decision-making by the Commission" in the ongoing *12 GHz Proceeding*.⁵ It strains credulity to imagine that authorizing experimental testing of this single ESIM for a six-month period could possibly have such an effect. Moreover, the Commission has made clear that it would only ever add terrestrial mobile operations in the 12 GHz band if it can do so "without causing harmful interference to incumbent licensees," including next-generation satellite systems.⁶ In other words, the Commission is not even considering any potential new terrestrial rights that could harm users of next-generation satellite systems. The unprotected operation of a single SpaceX ESIM in this band would not preclude Commission action consistent with the underlying premise of this rulemaking.

As an alternative to denying the application, RS Access proposes that the Commission impose a condition stating that the authorization is subject to modification if necessary to bring it into conformity with any rules or policies adopted in the future, including but not limited to any

⁴ See *id.* § 5.84.

⁵ *Expanding Flexible Use of the 12.2-12.7 GHz Band*, 36 FCC Rcd. 606 (2021) ("*12 GHz Proceeding*").

⁶ *Id.* ¶ 2.

changes adopted in the *12 GHz Proceeding*.⁷ Although RS Access asserts that the Commission has imposed such a condition on a prior experimental authorization,⁸ the condition it cites has nothing to do with modifying an existing authorization or the potential effects of an ongoing rulemaking proceeding on that authorization. Rather, the condition simply cautions that the experimental authorization does not prejudice “any *future* requests for continued operations” of the facilities in question.⁹ In any event, there is no need for the condition requested by RS Access because there is nothing about an experimental authorization to test a single ESIM on a non-interference, non-protected basis that could possibly need to be revised to comply with some new policy or rule. Moreover, the *12 GHz Proceeding* is not currently in a procedural posture where an order could be issued without a further notice, which would certainly take longer than the six-month life of this experimental license.

Clearly, RS Access’s objection is nothing more than a continuation of its efforts to hamstring actual service in the 12 GHz band while it pursues a strategy designed to cash in on a potential spectrum windfall. By now, the Commission should recognize RS Access’s efforts for what they are, reject them out of hand, and quickly move to grant the pending application.

Sincerely,

/s/ David Goldman

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Director of Satellite Policy

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⁷ See RS Access Objection at 2.

⁸ See *id.* at 2 n.7.

⁹ Hawkeye 360, Inc., Special Temporary Authorization, ELS File No. 1455-EX-ST-2019, Special Condition 2 (granted Nov. 14, 2019) (emphasis added).